REMARKS

In accordance with the foregoing, claim 1 has been amended, claims 3-5 have been added. Claims 1-5 are pending and under consideration. No new matter is presented in this Amendment.

DOUBLE PATENTING

On page 2 of the Office Action, the Examiner rejects claim 1 on the ground of nonstatutory obviousness-type double patenting in view of claim 1 of U.S. Patent No. 6,578,163. Since claims 1-5 of the instant application have not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer or arguments as to the non-obvious nature of the claims would be premature. MPEP 804(I)(B). As such, it is respectfully requested that the applicant be allowed to address any obviousness-type double patenting issues remaining once the rejection of the claims under 35 U.S.C. §102 is resolved and that the rejection be reconsidered in light of the claims presented above.

REJECTIONS UNDER 35 U.S.C. §102:

On pages 2-3 of the Office Action, the Examiner rejects claims 1 and 2 under 35 U.S.C. §102(b) in view of Naoki (JP 06-338139). The rejection is traversed and reconsideration is respectfully requested.

By way of review, Naoki teaches rewriting data in a region 12 into another region 13. Where an unused region 12b exists in the region 12 and the another region 13 has no blank spaces to receive the rewritten data, the unused region 12b is re-designated as an extended portion of the another region 13, shown as 13EXT. (Abstract). However, there is no suggestion that the extended portion 13EXT or the region 12 include replacement data for user data in a data area.

In contrast, claim 1 recites, among other features, "a primary spare area allocated upon initialization of the recording medium and which stores replacement data replacing defective areas of the data area for defect management of the user data" and "a supplementary spare area, allocated and/or expanded after the initialization, which stores additional replacement data replacing additional defective areas of the data area that are in addition to the replacement data stored in the primary spare area for defect management of the user data." As such, it is respectfully submitted that Naoki does not suggest the features of claim 1.

Claim 2 is deemed patentable due at least to its depending from claim 1.

PATENTABILITY OF NEW CLAIMS:

Claims 3-5 are deemed patentable due at least to their depending from claim 1.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.
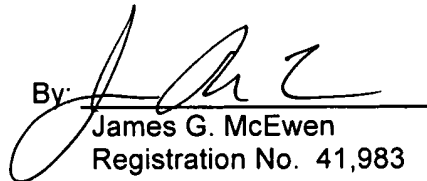
Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: ___July 14, 2006___   By: _____
                                        James G. McEwen
                                        Registration No. 41,983

1400 Eye St., NW
Suite 300
Washington, D.C. 20005
Telephone: (202) 216-9505
Facsimile: (202) 216-9510